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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,603	09/28/2004	Jason A. Polzin	GEMS8081.218	5602

27061 7590 04/04/2007  
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)  
136 S WISCONSIN ST  
PORT WASHINGTON, WI 53074

EXAMINER
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ARANA, LOUIS M

ART UNIT	PAPER NUMBER
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2859

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



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10/7/11, 683

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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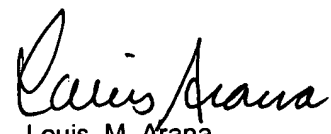
ART UNIT	PAPER
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20070330

DATE MAILED:

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Commissioner for Patents



Louis M. Arana  
Primary Examiner  
Art Unit: 2859

### **DETAILED ACTION**

1. This communication is responsive to your response filed January 3, 2007 to the Ex Parte Quayle mailed November 3, 2006. Claims 1-38 are currently pending in this application. Claims 1-13 have been allowed. Claims 14-38 stand withdrawn because of a restriction requirement.
2. In order to expedite prosecution, the examiner contacted Mr. Timothy J. Ziolkowski on March 30, 2007 with a proposal to add the allowable subject matter of the elected claims to the non-elected independent claims which would have resulted in the rejoinder and allowance of all the claims. Since an agreement was not reached, an Office action follows.
3. Applicant's petition for supervisory review of the restriction requirement filed on November 3, 2006 has been treated as a request for supervisory review of the restriction requirement and has been considered by SPE Diego Gutierrez. This request was not persuasive and the restriction requirement has been maintained and made Final for the reasons stated below as attested by SPE Diego Gutierrez's signature.

### ***Election/Restrictions***

4. Applicant's election with traverse of Group I (claims 1-13) in the reply filed on January 3, 2007 is acknowledged. The traversal is on the ground(s) that claim 1 is generic. This is not found persuasive because claim 1 is in fact not generic. The definition of a generic claim is set forth in MPEP 806.04(d) reproduced below:

Art Unit: 2859

**806.04(d) [R-3] Definition of a Generic Claim**

In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of these views; but the fact that a claim does so read is not conclusive that it is generic. It may define only an element or subcombination common to the several species.

**\*\* In general, a generic claim should \* >require< no material element additional to those \*\* >required by< the species claims, and \*\* each of the species >claims must require all the limitations of the generic claim<.**

**\*\* Once a \*\* >generic claim is allowable<, all of the claims drawn to species in addition to the elected species which \* >require< all the limitations of the generic claim will ordinarily be \* allowable >over the prior art< in view of the \* >allowability< of the generic claim, since the additional species will depend thereon or otherwise \* >require< all of the limitations thereof. When all or some of the claims directed to one of the species in addition to the elected species do not \* >require< all the limitations of the generic claim, \*\* see MPEP § \* >821.04(a)<.**

In the case at hand claim 1 requires the following material elements in addition to claims 14 and 28:

- 1) generation of more than one image
- 2) determination of phase associated with moving and stationary spins.

Furthermore, the restriction requirement of record is a restriction requirement based on related inventions and is not based an election of species where a generic claim is present. Thus, the argument that claim 1 is generic is moot and therefore not persuasive.

The requirement is still deemed proper and is therefore made FINAL.

5. This application is in condition for allowance except for the presence of claims 14-38 directed to an invention non-elected with traverse in the reply filed on November 3, 2006. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR

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1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

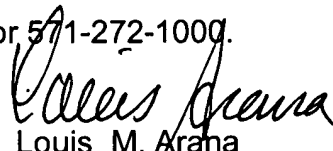
The prosecution of this case is closed except for consideration of the above matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis M. Arana whose telephone number is (571) 272-2236. The examiner can normally be reached on M-Thurs. Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

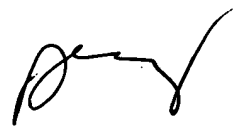
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Louis M. Arana  
Primary Examiner  
Art Unit 2859

Ima  
4/3/07



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800